

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ERIN K. KELLEY,

Plaintiff,

v.

EAGLE VALLEY CHILDREN'S HOME, *et. al.*,

Defendants.

Case No. 3:23-CV-00410-MMD-CLB

**ORDER GRANTING MOTION FOR
ORDER APPROVING SERVICE OF
PROCESS**

[ECF No. 11]

Before the Court is Plaintiff Erin K. Kelley's ("Kelley") motion for order approving service of process, (ECF No. 11). In her motion, Kelley states that the U.S. Marshal has attempted service of the summons and complaint in this action on a non-commercial registered agent of Defendant Eagle Valley Children's Home ("Defendant"), but that the resident agent no longer resides at the listed address. Thus, Kelley requests that the Court allow Kelley to attempt service of process on the officers of Defendant, as listed on the Nevada Secretary of State's Office website. (*Id.*)

Pursuant to Fed. R. Civ. P. 4(h)(1), a corporation may be served either "by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process," or in the manner prescribed by the state law in which the district court is located. Under Nevada law, if the suit is against an entity formed under Nevada law or registered to do business in the state, service may be accomplished by serving "the registered agent thereof or if the entity ... is (i) a corporation, to any officer thereof...." NRCP 4(d)(1).

According to the Nevada Secretary of State's website, Defendant is a domestic nonprofit corporation, thus service can be attempted on officers John E. Dooley III, Julie Sawyer, and Tracy L. Fisher, Jr., as Kelley requests.

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1 Accordingly, Kelley's motion for order approving service of process, (ECF No. 11),
2 is **GRANTED**.

3 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL ISSUE** a summons for
4 Defendant Eagle Valley Children's Home and the three officers listed in Kelley's motion
5 and deliver the same to the U.S. Marshal for service. The Clerk shall also **SEND** sufficient
6 copies of the amended complaint, (ECF No. 5), the screening order, (ECF No. 8), and
7 this Order to the U.S. Marshal for service on the Defendant. The Clerk **SHALL SEND** to
8 Kelley three USM-285 forms. Kelley will have 30 days from the date of this Order to return
9 to the U.S. Marshal the required USM-285 forms with relevant information for the
10 defendant and the respective officers. Within 20 days after receiving from the U.S.
11 Marshal a copy of the USM-285 forms showing whether service has been accomplished,
12 Kelley must file a notice with the Court identifying whether the defendant was served or
13 not. If Kelley wishes to have service again attempted on an unserved defendant, then a
14 motion must be filed with the Court identifying the unserved defendant and specifying a
15 more detailed name and/or address for said defendant, or whether some other manner
16 of service should be attempted.

17 Kelley is reminded that under Federal Rule of Civil Procedure 4(m), service must
18 be completed within **90 days** of the date of the Screening Order, or by **February 15,**
19 **2024**. If Kelley requires additional time to meet any of the deadlines set by the Court, she
20 must file a motion for extension of time under Local Rule 1A 6-1 and Local Rule 26-3 that
21 is supported by a showing of good cause. A motion filed after a deadline set by the Court
22 or applicable rules will be denied absent a showing of excusable neglect.

23 Once a defendant is served, Kelley must serve a copy of every pleading or other
24 document submitted for consideration by the Court upon the defendant or, if an
25 appearance has been entered by counsel, upon the attorney. Kelley must include with
26 the original of each document to be filed with the Court a certificate stating that a true and
27 correct copy of the document was served on the defendant, or counsel, if the defendant
28 has an attorney. Under Local Rule 5-1 the proof of service must show the day and manner

1 of service and the name of the person served. The Court may disregard any paper
2 received which has not been filed with the Clerk, or that fails to include a certificate of
3 service.

4 **IT IS SO ORDERED.**

5 **DATED:** January 30, 2024.

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8 **UNITED STATES MAGISTRATE JUDGE**